

MINUTES

ALCOHOL AND TOBACCO COMMISSION

OCTOBER 21, 2008

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson and Commissioner Sturtz. Also in attendance were Executive Secretary Choe and Superintendent Huskey.

Jeff McKean, Bart Herriman, Marci Reddick, Trevor Vance, Jack Bailey, and Nicole Upano were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the October 7, 2008 meeting. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the October 21, 2008 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR45-06268 MERRI, INC., D/B/A OUR DOLLS – Hearing Judge Choe submitted her Proposed Findings of Fact and Conclusions of Law, for recommendation to the Commission, stating the permittee was in violation of IC 35-45-4-1, IC 35-45-4-4, IC 7.1-5-7-10(B), IC 7.1-5-6-3, and 905 IAC 1-12.1-2.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation with two exceptions: reduce the suspension by 15 days; and, if the permittee has any like violations in the future, the Commission will revoke the permit without notice. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL49-05611 PAYLESS LIQUORS, INC. – Hearing Judge Choe submitted her Proposed Findings of Fact and Conclusions of Law, for recommendation to the Commission, finding that the remonstrators have standing and an appeal hearing should be conducted on the merits of the case.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation to grant standing to the remonstrators and hold an appeal hearing on the merits of the case. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-06080 DUNGEON, INC. – Vice Chairman Johnson moved to table this matter pending a settlement agreement. Motion seconded by Commissioner Sturtz and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

Three hundred eleven (311) renewals approved, eighty-eight (88) new and/or transfer permits approved, five (5) permits approved for catering, five (5) permits approved for first year escrow, six (6) permits approved for second year escrow, three (3) permits approved for third year escrow and three (3) permits approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

DL70-25100 GASAMERICA SERVICES, INC. – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Vice Chairman Johnson moved to uphold the local board and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL53-97056 BUEHLER FOODS, INC. – Vice Chairman Johnson stated the location of this permit was annexed into the city limits of Ellettsville. Permittee requests the commission convert this type 116 permit to a type 115 permit.

Vice Chairman Johnson moved to approve the conversion. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL45-25114 786 INDIANA PETROLEUM CORP., D/B/A CITGO GAS AND FOOD MART – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Vice Chairman Johnson moved to uphold the local board and disapprove the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-24229 GOAB CORPORATION, D/B/A LA ESCOLLERA II – Chairman Heath noted this is a new type 112 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairman Johnson moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

PERMITS MADE INACTIVE – Vice Chairman Johnson moved to make three (3) permits inactive. All three (3) permits are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

REVOCATION HEARING – Vice Chairman Johnson moved to declare the following permits inactive due to the fact that they did not appear for their revocation hearing:

RR45-19527, RR71-19627, RR10-83426, RR48-04800, RR67-11592, RR10-21595, RR11-02330

Motion seconded by Commissioner Sturtz and it was unanimously approved.

OLD BUSINESS

TYPE II GAMING EMERGENCY RULES/TYPE II GAMING PROPOSED RULES – Executive Secretary Choe requested the Commission repeal the Type II Gaming Emergency Rules and replace them with the Type II Gaming Proposed Rules.

Vice Chairman Johnson moved to approve the Executive Secretary's request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

NOVEMBER COMMISSION MEETING – The first Commission meeting in November will be held on Wednesday, November 5th at 10:00, due to Election Day.

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

Approved this _____ day of _____, 2008.

DAVE HEATH, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER